Ninety-Eighth Legislature - First Session - 2003
Committee Statement
LB 221

Hearing Date: January 29, 2003
Committee On: Health and Human Services

Introducer(s): (Byars)
Title: Change reciprocal pharmacist registration and drug product selection provisions

Roll Call Vote – Final Committee Action:

	Advanced to General File
X	Advanced to General File with Amendments
	Indefinitely Postponed

Vote Results:

7	Yes	Senator Jensen, Byars, Cunningham, Maxwell, Erdman, Johnson and Stuthman
	No	
	Present, not voting	
	Absent	

Proponents:	**Representing:**
Senator Byars	Introducer
Allison Jorgenson	Nebraska Pharmacists Association
Bob Hallstrom	Nebraska Pharmacists Association
David Buntain	Nebraska Medical Association
Cara Potter	National Association of Chain Drug Stores

Opponents:	**Representing:**
Tom Jenkins	Blue Cross/Blue Shield

Neutral:	**Representing:**

Summary of purpose and/or changes: The bill amends statutes relating to reciprocal licensing of pharmacists and drug product selection by pharmacists.

The bill changes the term “registration” to “licensure” as it relates to pharmacists from other states who seek licensure in Nebraska without examination, and deletes an existing one-year prior practice requirement for such pharmacists.

The bill amends provisions of the Nebraska Drug Product Selection Act (sections 71-5401 to 71-5408). In section 71-5402, the bill adds new definitions and revises existing definitions.

The bill amends section 71-5403 relating to the conditions under which a pharmacist may drug product select (i.e. dispense an equivalent drug product in place of a brand-name product without the express authorization of the prescribing practitioner). The bill provides that: (1) a pharmacist may drug product select except when it is not permitted by a practitioner or a patient or caregiver instructs otherwise; (2) a practitioner may specify in writing, verbally, or by an authorized transmitted copy that drug product selection is not permitted for a specific brand-name product; and (3) a pharmacist may not drug product select unless: (a) the drug product, if it is in solid dosage form, has been marked with an identification code or monogram directly on the dosage unit, (b) the drug product has been labeled with an expiration date, (c) the manufacturer, distributor, or packager provides reasonable services, as determined by the Board of Pharmacy, for the return of expired drug products, and (d) the manufacturer, distributor, or packager maintains capabilities to recall unsafe or defective drug products.

The bill amends section 71-5404 and provides that: (1) when a drug product is prescribed and no drug product selection is permitted, reimbursement must be made based on the price of the brand-name drug and not the equivalent drug, unless the reimbursement contract specifically requires generic reimbursement under federal regulations; (2) a prescription drug or device must have the name of the drug on the label when dispensed unless the practitioner writes "do not label" or words of similar import on the prescription or gives such instruction verbally or by an authorized transmitted copy; and (3) the foregoing provisions do not (a) require a pharmacy to charge less than its established minimum price for filling a prescription or (b) prohibit any hospital from developing, using, and enforcing a drug formulary.

Explanation of amendments, if any: The committee amendment (AM 320) makes technical and other changes to the bill as introduced. The amendment states purpose, revises the definition of "authorized transmitted copy," and alphabetizes definitions. The amendment requires a prescribing practitioner to designate that drug product selection is not permitted in his or her own handwriting on the face of the prescription or by telephonic or electronic communication. For a written prescription, the practitioner must specify on the prescription the phrase "no drug product selection," "dispense as written," "brand medically necessary," or "no generic substitution" or the notation "N.D.P.S.," "B.M.N.," or "D.A.W." or words or notations of similar import to indicate that drug product selection is not permitted. The pharmacist must note "N.D.P.S." or "No Drug Product Selection" on the face of an orally communicated prescription from a prescribing practitioner for which no drug product selection is permitted. The amendment also authorizes a "representative" or "caregiver" of the patient to specify that there be no drug product selection.

The amendment reinstates language authorizing the department, in consultation with the Board of Medicine and Surgery and the Board of Pharmacy, to adopt and promulgate rules and regulations to implement the Nebraska Drug Product Selection Act.

Senator Jim Jensen, Chairperson